

8-25-93

AUG 09 1993

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202)
FM Table of Assignments)
(Utica, Hazelhurst and)
Vicksburg, Mississippi))
)

MM Docket No. 93-158
RM-8239

To: Chief, Policy and Rules Division

COMMENTS AND COUNTERPROPOSAL

St. Pe' Broadcasting, Inc. ("St. Pe' Broadcasting"),
licensee of WJXN(FM), Utica, Mississippi, herewith submits its
Comments and Counterproposal in response to the Commission's
Notice of Proposed Rulemaking (DA 93-600), released in the above
proceeding on June 16, 1993, as follows:

1. In its Notice of Proposed Rulemaking, issued in response
to St. Pe's Petition for Rulemaking, the Commission proposed to:
(a) substitute FM Channel 265C3 for 225A at Utica, Mississippi,
and modify the authorized facilities of WJXN(FM), Utica,
Mississippi, to specify operation on 265C3, (b) substitute FM
Channel 225A for 265A (as licensed) at Hazelhurst, Mississippi,
and modify the authorized facilities of WMDC(FM), Hazelhurst,
Mississippi, to specify operation on 225A, and (c) substitute FM

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Channel 267A for 266A at Vicksburg, Mississippi, and modify the authorized facilities of WBBV(FM), Vicksburg, Mississippi, to specify operation on 267A.

2. St. Pe' hereby states its support for the above referenced channel substitutions, proposed by the Commission, and hereby reiterates its expression of interest in the proposed upgrade of WJXN(FM)'s facilities and its pledge that, upon issuance of an Order implementing the proposed Channel substitutions, it will promptly prepare and file the necessary application with the Commission and, having obtained authorization to do so, will promptly construct the facilities so authorized. Likewise, St. Pe' hereby reiterates its pledge that, upon issuance of an Order implementing the proposed Channel substitutions, it will undertake to reimburse the licensees of WMDC(FM), Hazelhurst, Mississippi, and WBBV(FM), Vicksburg, Mississippi, for their costs in implementing their respective changes in frequency in accordance with Commission policy.

3. However, St. Pe' has subsequently determined that Channel 265C2 is available for substitution at Utica, Mississippi, in lieu of Channel 265C3 and respectfully requests the Commission to substitute Channel 265C2 for Channel 225A at Utica and to modify its license, accordingly, thereby amending Section 73.202 of the Commission's Rules, FM Table of Assignment, as follows:

City	Channel No.
Utica, Mississippi	265C2
Hazelhurst, Mississippi	225A
Vicksburg, Mississippi	267A 254C1 294C

4. As reflected in the attached Technical Exhibit, prepared by Jefferson C. Brock, the substitution of FM Channel 265C2 for 225A at Utica, Mississippi, can be made in full compliance with all applicable minimum mileage separation and other technical requirements under the Commission's Rules, through the imposition of a site restriction of 27.4 kilometers, East-Southwest, provided the same channel substitutions at Hazelhurst and Vicksburg, Mississippi, are implemented, as proposed in the Commission's Notice of Proposed Rulemaking.

5. As further reflected at paragraph 3 of the attached Technical Exhibit, contrary to the Commission's contention at paragraph 12 of its Notice of Proposed Rulemaking, the proposed substitutions constitute an "incompatible swap" and no competing expression of interest may be entertained for Channel 265C3 (or 265C2) at Utica, Mississippi.

6. The proposed substitution of Channel 265C2 for Channel 225A at Utica, Mississippi, and modification of the license of WJXN(FM) to specify operation on Channel 265C2, will provide that community and the surrounding area with improved FM service from

the only local outlet licensed to Utica. The substitution of FM Channel 225A for 265A (as licensed) at Hazelhurst, Mississippi, likewise, will provide that community and the surrounding area with improved FM service, since WMDC(FM) is precluded from full 6 kilowatt operation on Channel 265A at its current tower site and has been unable or unwilling to implement an upgrade to Channel 265C3, which it previously sought but failed to implement. The substitution of FM Channel 267A for 266A at Vicksburg, Mississippi, likewise, will provide that community and the surrounding area with improved FM service, since WBBV(FM) is currently precluded from full 6 kilowatt operation on Channel 266A.

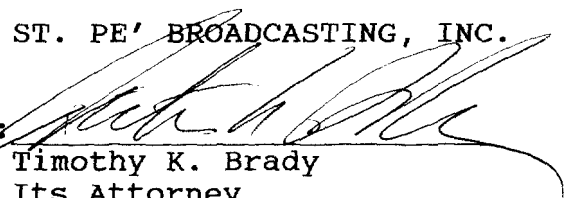
WHEREFORE, for the foregoing reasons, the Commission should amend Section 73.202 of its Rules by (a) deleting Channel 265C3 at Hazelhurst, Mississippi, (b) substituting FM Channel 265C2 for 225A at Utica, Mississippi, and modifying the authorized facilities of WJXN(FM), Utica, Mississippi, to specify operation on 265C3, (c) substituting FM Channel 225A for 265A (as licensed) at Hazelhurst, Mississippi, and modifying the authorized facilities of WMDC(FM), Hazelhurst, Mississippi, to specify operation on 225A, and (d) substituting FM Channel 267A for 266A at Vicksburg, Mississippi, and modifying the authorized facilities of WBBV(FM), Vicksburg, Mississippi, to specify

operation on 267A.

Respectfully Submitted,

ST. PE' BROADCASTING, INC.

By:


Timothy K. Brady
Its Attorney

P.O. Box 986
Brentwood, TN 37027-0986
(615) 371-9367

August 9, 1993

COMMENTS AND COUNTERPROPOSAL
MM DOCKET #93-158
ST. PE' BROADCASTING
WJXN(FM) RADIO STATION
UTICA, MISSISSIPPI
August 1993

Technical Exhibit
TE-1

Bromo Communications, Inc.
P.O. Box M - 1331 Ocean Boulevard, Suite 201
St. Simons Island, Georgia 31522
(912) 638-5608

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COMMENTS AND COUNTERPROPOSAL
MM DOCKET #93-158
ST. PE' BROADCASTING
WJXN(FM) RADIO STATION
UTICA, MISSISSIPPI
August 1993

TECHNICAL STATEMENT

1. This Technical Statement and attached exhibits were prepared on behalf of St. Pe' Broadcasting ("St. Pe'") licensee of WJXN(FM) Radio Station, Utica, Mississippi. St. Pe' is the petitioner in MM Docket #93-158. St. Pe' suggests that rather than Channel 265C3 being substituted for Channel 225A at Utica, Mississippi, that Channel 265C2 be substituted for Channel 225A. This counterproposal does not impact any of the other requests already proposed by St. Pe'.

BACKGROUND

2. In its Petition for Rule Making, St. Pe' requested the substitution of Channel 265C3 for Channel 225A at Utica, Mississippi. In order to accommodate this channel change, it is also necessary to substitute Channel 225A for Channel 265C3 at Hazlehurst, Mississippi. Further, it is also necessary to substitute Channel 267A for Channel 266A at Vicksburg, Mississippi. In the Commission's Notice of Proposed Rule Making ("NPRM"), which set forth these

requests, it was noted that this proposal might not be implemented, if an expression of interest in Channel 265C3 at Utica was received, unless an equivalent channel was available.

INCOMPATIBLE SWAP

3. The St. Pe' requests at Utica and Hazlehurst, Mississippi, are an "incompatible channel swap", and, therefore, are mutually exclusive requests in accordance with §1.420(g)(3) of the Commission's rules. Channel 265C3 cannot be allocated to Utica, unless it is deleted from Hazlehurst. Channel 225A cannot be utilized in Hazlehurst, unless it is deleted from Utica. There are no other Class A channels which can be substituted in Hazlehurst, Mississippi, at the present WMDC-FM site. Further, both Channel 265C3 and Channel 225A are presently unavailable for general applications, since each channel is presently reserved for WMDC-FM and WJXN, respectively. Therefore, this proposal is clearly an incompatible channel swap for which no expression of interest for the alternate use of Channel 265C3 at Hazlehurst may be entertained by the Commission. ¹

1) In MM Docket #92-155, DA 93-637, Paragraph 12, the Commission outlined an example of an incompatible channel swap. This instant proposal is comparable with the example outlined by the Commission.

COUNTERPROPOSAL

4. It has come to the attention of St. Pe' that by site restricting from their present Class A transmitter location at Utica, a Class C2 facility operating on Channel 265 would meet the allocation constraints of §73.207 while maintaining 3.16 mV/m service to Utica. This too should be considered an incompatible channel swap, since this still requires the removal of Channel 265C3 from Hazlehurst and the substitution of St. Pe's present Class A channel in Utica as a replacement channel for Hazlehurst. Therefore, St. Pe' herein requests that Channel 265C2 be allotted to Utica, Mississippi (as opposed to Channel 265C3 in the original proposal).

5. Channel 265C2 can be allotted to Utica, Mississippi, at reference coordinates North Latitude 32° 04' 01" and West Longitude 90° 20' 14". This represents a site restriction of 27.4 kilometers east-southeast of the community to avoid shortspacing four authorized or proposed allocations. 2 From this location, a 3.16 mV/m contour will be delivered to Utica, Mississippi. Exhibit #1 is the usable area for Channel 265C2 at Utica, Mississippi. Exhibit #2 is a §73.207 spacing analysis, which demonstrate that Channel 265C2 at

2) The site restriction is necessary to protect the proposed addition of Channel 267A, Vicksburg, Mississippi; WDMS, Channel 264C1, Greenville, Mississippi; the vacant, yet applied for Channel 2645A, Richwood, Louisiana, and WYYE, Channel 263A, Port Gibson, Mississippi.

Utica meets the Commission's minimum distance separation requirements to all licensed, applied for or proposed facilities. Both Exhibits assume Channel 225A has been substituted for Channel 265C3 at Hazlehurst, Mississippi and that Channel 267A has been substitute for Channel 266A at Vicksburg, Mississippi.

6. The two other channel substitutions at Hazlehurst and Vicksburg, Mississippi, were outlined in the original St. Pe' request and are compatible with either Channel 265C2 or Channel 265C3 at Utica. The engineering information relating to the other substitutions are incorporated herein by reference.

7. Therefore, St. Pe' proposes the following changes in §73.202(b) of the Commissions rules:

Utica, Mississippi

Present
225A

Proposed
265C2

Hazlehurst, Mississippi

Present
265C3

Proposed
225A

Vicksburg, Mississippi

Present
254C1, 266A
294C

Proposed
254C1, 267A
294C

8. When the Commission allots Channel 265C2 to Utica, Mississippi, it will file an application to make minor changes in the facilities of WJXN to specify operation on Channel 265C2. Should the Commission deem the St. Pe' counterproposal for Channel 265C2 at Utica, Mississippi, as unacceptable, St. Pe' will accept the C3 allocation as originally proposed.

9. The foregoing technical statement was prepared on behalf of St. Pe' Broadcasting by Bromo Communications, Inc., its Technical Consultants. All of the information contained herein is true and accurate to the best of our belief and knowledge. Should questions arise during consideration of this proposal, we would welcome the opportunity to discuss the matter by phone at (912) 638-5608. All of the data regarding FM facilities was extracted from the NTIA FM database, as updated June 30, 1993. We accept no liability for omissions or errors in the database which may be adverse to this proposal.

BROMO BROADCAST
TECHNICAL CONSULTANTS
COMMUNICATIONS
St Simons Island, Georgia Washington, D. C.

REFERENCE
32 04 01 N
90 20 14 W

CLASS C2
Current rules spacings
CHANNEL 265 -100.9 MHz

DISPLAY DATES
DATA 06-30-93
SEARCH 08-04-93

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
--------------	------------	-------------	--------------	-------------	--------------	--------------	----------------

AD265	265C3	Utica	MS	284.5	15.76	177.0	-161.24
AD	32 06 09	90 29 56	0.000 kW	OM	9.8	110.0	
	St. Pe' Broadcasting, Inc.				RM8239	921214	

ALOPEN	265C3	Hazlehurst	MS	150.7	29.71	177.0	-147.29
AL	N 31 50 00	90 11 00	0.000 kW	OM	18.5	110.0	
	MM Docket #89-411						
	>Effective 6-15-90-Rsvd for WMDCFM-to Channel 225A						

WMDCFM	265A	Hazlehurst	MS	197.6	20.27	166.0	-145.73
LI	CN 31 53 34	90 24 08	3.000 kW	87M	12.6	103.2	
	Copiah County Broadcasting Co.				BLH-880803LK		
	>to Channel 225A						

WBBV	266A	Vicksburg	MS	304.6	57.09	106.0	-48.91
LI	CN 32 21 34	90 50 08	1.350 kW	146M	35.5	65.9	
	Bishop Broadcasting, Inc.				BLH-890828KB		
	>to Channel 267A						

WMPR	211C1	Jackson	MS	59.1	27.08	27.0	0.08
LI	CN 32 11 33	90 05 28	100.000 kW	137M	16.8	16.8	
	J.C. Maxwell Broadcasting Group				BLD-840702DW		

AP265	265A	Richwood	LA	283.0	167.64	166.0	1.64
AP	CN 32 24 25	92 04 13	6.000 kW	100M	104.2	103.2	
	Russ Robinson				BPH-910826ML	920131	

AD267	267A	Vicksburg	MS	304.6	57.09	55.0	2.09
AD	32 21 34	90 50 08	0.000 kW	OM	35.5	34.2	
	St. Pe' Broadcasting, Inc.				RM8239	921214	

ALOPEN	265A	Richwood	LA	284.2	169.16	166.0	3.16
AL	N 32 26 24	92 04 40	0.000 kW	OM	105.1	103.2	
	MM Docket #91-5						
	>Effective 7-25-91						

WDMS	264C1	Greenville	MS	336.7	163.65	158.0	5.65
LI	HN 33 25 20	91 01 41	52.000 kW	137M	101.7	98.2	
	Mid-America Broadcasting Co.,				BLH-860418KB		

ALLOCATION STUDY CHANNEL 265C2

STUDY ASSUMES THAT WMDC HAZLEHURST, MS IS OPERATING ON CHANNEL 225A AND THAT WBBV VICKSBURG, MS IS OPERATING ON CHANNEL 267A.

EXHIBIT #2

COMMENTS & COUNTERPROPOSAL
ST. PE' BROADCASTING, INC.
MM DOCKET #93-158
ALLOT CHANNEL 265C2
UTICA, MISSISSIPPI

August 1993

BROMO
COMMUNICATIONS

St Simons Island, Georgia

BROADCAST
TECHNICAL CONSULTANTS

Washington, D.C.

AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT

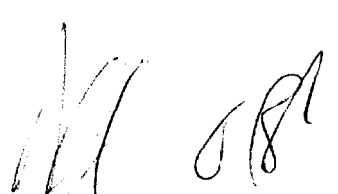
State of Georgia)
St. Simons Island) ss:
County of Glynn)

JEFFERSON G. BROCK being duly sworn, deposes and says that he is an officer of Bromo Communications, Inc. Bromo has been engaged by St. Pe' Broadcasting, licensee of WJXN(FM), prepare the attached Technical Exhibit.

His qualifications are a matter of record before the Federal Communications Commission. He has been active in Broadcast Engineering since 1979.

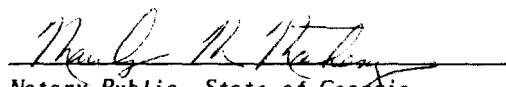
The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

This the 4th day of August, 1993.



Jefferson G. Brock
Affiant

*Sworn to and subscribed before
me this the 4th day of August, 1993.*



Notary Public, State of Georgia
My Commission Expires: September 8, 1995

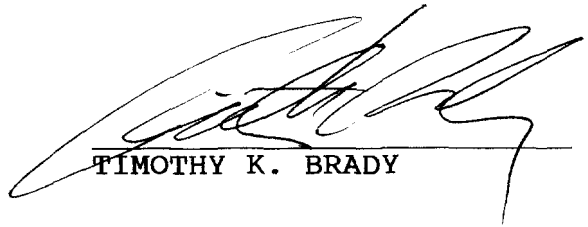
CERTIFICATE OF SERVICE

I, Timothy K. Brady, hereby certify that I have on or before the 9th day of August, 1993, served a copy of the foregoing Comments and Counterproposal by First Class mail, postage prepaid upon the following:

Michael C. Ruger, Chief
Allocations Branch
Policy and Rules Division
2025 M Street, NW, Rm. 8010
Washington, DC 20554

Copiah County Broadcasting Co.
WDMC(FM)
P.O. 680
Hazelhurst, MS 39083

A. Wray Fitch, Esq.
Gammon & Grange
8280 Greensboro Drive
McLean, VA 22102
(Counsel for Bishop Broadcasting, Inc.,
licensee of WBBV(FM), Vicksburg, MS)



TIMOTHY K. BRADY